

Research Briefing

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Animal Welfare (Sentience) Bill



Summary

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Summary

The Animal Welfare (Sentience) Bill would require the Government to set up an Animal Sentience Committee to examine whether “the welfare of animals as sentient beings” is considered in policy decisions.

The Bill is the Government’s response to concerns raised when it did not transpose the recognition of animal sentience in the EU Treaty of Lisbon into UK legislation, following Brexit.

The intention to legislate was set out in a [statement](#) by the Government in November 2017 and was [followed by a consultation on a draft Bill](#) in December 2017 .

Following the consultation, the proposals were paused by Defra as [recommended by the Environment Food and Rural Affairs Select Committee in January 2018](#). This was to allow “the problematic concepts” of animal sentience included in the Bill to be better defined.

The [Animal Welfare \(Sentience\) Bill \[HL\]](#) was introduced in the House of Lords on 13 May 2021.

What does the Animal Sentience Bill cover?

[The Bill as introduced in the House of Commons](#) following consideration in the House of Lords, recognises all vertebrate animals and some invertebrate animals as sentient beings. Sentience is not defined in the Bill.

The Bill requires the Government to establish an Animal Sentience Committee (ASC). The ASC will be able to scrutinise and report on whether the Government is taking into account the adverse effect of any policy “on the welfare of animals as sentient beings”. The ASC will not have an advisory or enforcement role.

The Bill is short, consisting of six clauses split into two sections. The first covers the ASC and its role. The second section covers transparency, definition of animal for the purposes of the Bill and its territorial extent.

The Bill was welcomed by animal welfare organisations. Concerns about the implications for farming and activities, such as hunting and fishing, have been raised by some stakeholders.

An [Environment Food and Rural Affairs \(EFRA\) Select Committee inquiry into the Bill](#) began in May 2021. The Committee has not yet published its report,

but its Chair wrote to the Secretary of State raising some [questions on how the ASC will function](#). This includes whether members of the ASC will have enough time to do their work. Will the ASC be able to publish reports without requiring approval from Government. And will it have sufficient powers to fulfil its role effectively.

Passage through the House of Lords

During the passage of the Bill there were no successful Opposition amendments. The Bill was amended by the Government to include cephalopods molluscs (such as octopus) and decapod crustacea (such as lobsters and crabs) in the definition of animals that are sentient, following a [review of the evidence by the London School of Economics and Political Science in November 2021](#).

Lords' debates on the Bill raised concerns about the limited detail in the Bill on the role of the ASC, and the broad scope of the Committee's remit. The Government responded by publishing [ASC draft terms of reference](#). These also included details of how the ASC will operate, and how appointments will be made. The Government has said that [animal welfare will not take precedence](#) over other considerations when formulating or implementing a particular policy.

Passage through the House of Commons

There were no amendments to the Bill [during Second Reading and Committee Stage](#) in the House of Common. A number of opposition amendments were debated and voted on during Committee but failed to pass. This included amendments that would have added a definition of sentience in the Bill; increased the scope of the ASC; and required the Government to publish and report on an Animal Sentience Strategy.

Report and Third Reading of the Bill were due to take place in the House of Commons on 7 March 2021 but was postponed.

Territorial extent

The Bill covers England and Wales, Scotland and Northern Ireland. However, it does not extend to the devolved competencies of the devolved administrations, which are explicitly excluded in the Bill.

1 Background

1.1 Animal sentience in EU legislation

Animal sentience is recognised but not defined in EU legislation. The 1997 Treaty of Amsterdam included a [Protocol on protection and welfare of animals \(PDF, 346KB\)](#) which stated the following:

DESIRING to ensure improved protection and respect for the welfare of animals as sentient beings,

HAVE AGREED UPON the following provision which shall be annexed to the Treaty establishing the European Community,

In formulating and implementing the Community's agriculture, transport, internal market and research policies, the Community and the Member States shall pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.¹

This principle was incorporated as an article into the [Lisbon Treaty](#), signed in 2007, with a small amendment. Article 13 provides that Member States should pay full regard to the welfare requirement of animals when formulating policies in certain areas “since animals are sentient beings”. It says:

In formulating and implementing the Union's agriculture, fisheries, transport, internal market, research and technological development and space policies, the Union and the Member States shall, since animals are sentient beings, pay full regard to the welfare requirements of animals, while respecting the legislative or administrative provisions and customs of the Member States relating in particular to religious rites, cultural traditions and regional heritage.²

1.2 Animal sentience and Brexit

The [EU Withdrawal Act 2018](#) did not include provision to transfer the principle in Article 13 of the Lisbon Treaty recognising animals as sentient beings into UK legislation.

¹ [EU Commission, Treaty Of Amsterdam Amending The Treaty On European Union, The Treaties Establishing The European Communities And Certain Related Acts, 1997](#)

² [EU Commission, Treaty of Lisbon \(2007/C 306/01\), 2007](#)

This raised concerns among animal welfare campaigners as UK law, under the [Animal Welfare Act 2006](#), does not explicitly recognise the term although it does acknowledge that animals can experience suffering and pain.

There were several unsuccessful amendments during the EU Withdrawal Bill [committee stage](#) in the Commons, aimed at including the principle of animal sentience in the Bill. The Government did not support this, stating instead that it would consider how it might explicitly reflect the sentience principle in wider UK legislation.

Following the debate the Government made a statement setting out that “and protections strengthened when we leave the EU”. The Government announced on 12 December 2017 that it would be introducing [legislation to recognise animal sentience](#) and introduce tougher sentencing for animal cruelty offences. At the same time it published a short three clause [draft Animal Welfare \(Sentencing and Recognition of Sentience\) Bill, explanatory notes and consultation \(536KB, PDF\)](#).

The consultation closed on 31 January 2018. Following scrutiny of the draft Bill, the Environment, Food and Rural Affairs Committee [recommended that the Bill be split](#) to allow “the ‘problematic concepts in the existing Clause 1 [on animal sentience] to be better defined”.

The Government published the consultation response on 7 August 2018, announcing that it would legislate to [increase the maximum sentences for animal cruelty offences](#) (290KB, PDF) as soon as parliamentary time became available. On animal sentience, it said it would continue to work on the issue and intended to introduce any necessary legislation before the UK left the EU.

Further details can be found in the [Commons Library briefing on Animal sentience and Brexit](#).

1.3

Existing UK animal welfare legislation

There are several [legislative instruments in the UK covering animal welfare](#). Many of these implemented EU law, for example, the [Welfare of Farmed Animals \(England\) Regulations 2007](#), and the [Welfare of Animals \(Transport\) \(England\) Order 2006](#), which continue to be in force.

In addition, the [Animal Welfare Act 2006](#), which applies in England and Wales, makes it an offence to cause unnecessary suffering to any animal.

Animal Welfare Act 2006

‘Animal’ is defined in [Section 1](#) of the 2006 Act to include all (non-human) vertebrates and may be extended by regulation to include invertebrates on the basis of scientific evidence that “animals of the kind concerned are capable of experiencing pain or suffering”. While the legislation does not

specifically mention the word ‘sentient’, the [Explanatory Notes](#) for Section 1 mention that the Act applies to vertebrate animals as they are “currently the only demonstrably sentient animals”.

[Section 2](#) sets out what is considered a “protected animal” under the Act: “if it is of a kind which is commonly domesticated in the British Islands; it is under the control of man whether on a permanent or temporary basis, or it is not living in a wild state”.

Other definitions

Some campaign groups use a broader definition of sentience. For example [Compassion in World Farming](#) has stated that ‘sentient beings’ means that animals “can feel pain and suffer; learn from experience; make choices; feel joy, fear or misery; and enjoy the company of others”.³

Wild mammals are protected from acts of cruelty under the [Wild Mammals \(Protection\) Act 1996](#). This makes it an offence to mutilate, kick, beat, nail or otherwise impale, stab, burn, stone, crush, drown, drag or asphyxiate any wild mammal with intent to inflict unnecessary suffering, unless under the exclusions set out in the Act, which include:

- an act of mercy
- killing a wild mammal which has been injured or taken lawfully while hunting
- doing anything which is authorised by or under any enactment;
- if the act was done by means of any snare, trap, dog, or bird lawfully used for the purpose of killing or taking any wild mammal; or
- the lawful use of any poisonous or noxious substance on any wild mammal.⁴

Scotland

The [Animal Health and Welfare \(Scotland\) Act 2006](#) is similar to the legislation in England and Wales, in as much as the Act does not explicitly mention animal sentience. However, section 48 in the part II of the Act states that “references to suffering include physical or mental suffering”.

The Scottish Government set up the [Scottish Animal Welfare Commission](#) through regulations in 2020. Its remit includes considering how the welfare needs of sentient animals are being met by devolved policy; and possible legislative and non-legislative routes to further protect the welfare of sentient animals.

³ [CIWF, The Lisbon treaty: recognising animal sentience, 1 December 2009](#)

⁴ [Wild Mammals \(Protection\) Act 1996](#)

As part of its work, the Commission published [a review of Scottish Government activity affecting the welfare of animals, as sentient beings in November 2021](#). The stated aim of the Commission was to partly replace the requirement in Article 13 of the Lisbon Treaty to pay full regard to animal welfare.

Northern Ireland

The [Welfare of Animals Act \(Northern Ireland\) 2011](#) includes similar provisions to those in the Animal Welfare Act 2006.

1.4

What is animal sentience?

The UK Government asked the then [Farmed Animal Welfare Commission \(FAWC\)](#), which is now the [Animal Welfare Committee \(AWC\)](#), to advise on the recognition of sentience following the decision to legislate to recognise it in UK law.

The FAWC's response was published in March 2018. The Committee's view was that "[defining sentience is essential](#)". It set out its proposals for defining it in legislation:

Our view is that if a definition for the sentience of non-human animals is used in the context of this legislation, it should be along the following lines:

Sentience is the capability to experience pain, distress and harm.

Whilst this does have an emphasis on the negative state, it is by definition a conscious experience and lends itself to the inclusion of further animal groups as the responses can be demonstrated in research.⁵

[The Scottish Animal Welfare Commission, which advises the Scottish Government on an animal welfare, defined animal sentience](#) in a statement on 10 February 2021 as "the ability to have physical and emotional experiences, which matter to the animal, and which can be positive and negative".

The Government also commissioned The London School of Economics and Political Science (LSE) to review [the evidence of sentience in cephalopod molluscs and decapod crustaceans](#). The review published in November 2021 and includes a more extensive explanation of animal sentience based on feelings:

Sentience [...] is the capacity to have feelings. Feelings may include, for example, feelings of pain, distress, anxiety, boredom, hunger, thirst, pleasure, warmth, joy, comfort, and excitement [...] A sentient being is "conscious" in the most elemental, basic sense of the word. It need not be able to consciously

⁵ [FAWC, Animal Sentience, 16 March 2018](#)

reflect on its feelings, as we do, or to understand the feelings of others: to be sentient is simply to have feelings.

In discussions about animal welfare, sentience is sometimes defined in a narrower way, as specifically referring to the capacity to have negative, aversive feelings. The UK's Animal Welfare Committee (formerly the Farm Animal Welfare Committee) has defined sentience as the capacity to experience pain, distress, or harm (AWC, 2018).⁶

The LSE report notes that while the AWC leaves out the positive side of sentience it does focus on the type of feeling “that raises the most severe type of ethical concern”. The authors set out the reasoning for focusing on negative feelings in their own report:

We will focus in practice on the negative side of sentience, owing to the special significance of feelings of pain, distress or harm for animal welfare law (as emphasized, for example, in the Animal Welfare Act 2006).⁷

The Bill, as introduced in the House of Commons, does not include a definition of sentience. Lord Beynon, Parliamentary Under-Secretary of State for the Department for Environment, Food and Rural Affairs, explained why during the Lords committee stage:

We decided not to include a fixed definition of sentience in the Bill, because “sentience” is a term heavily influenced by the latest scientific understanding and so risks becoming rapidly out of date. Our scientific understanding of sentience has come a long way in recent years and will continue to evolve.

It is not necessary to define sentience in statute for the Bill to work. We all recognise that animals are sentient. Accordingly, their welfare needs should be properly considered in government policy-making. There is no need to make it more complicated than that.⁸

⁶ [LSE Review of the Evidence of Sentience in Cephalopod Molluscs and Decapod Crustacean, November 2021](#)

⁷ [LSE Review of the Evidence of Sentience in Cephalopod Molluscs and Decapod Crustacean, November 2021](#)

⁸ [HL Deb c287GC 6 July 2021](#)

2

The Bill

The [Animal Welfare \(Sentience\) Bill \(HL\)](#) was introduced in the House of Lords on 13 May 2021. [A briefing on the Bill as introduced](#) was published by the House of Lords Library. The [Parliament Bill page](#) includes an updated Explanatory Memorandum and Delegated Powers Memorandum for the Bill.

The Bill would allow for an Animal Sentience Committee to be created. Its functions would relate to “the effect of government policy on the welfare of animals as sentient beings”.⁹

The Bill is short, consisting of six clauses split into two sections. The first covers the Animal Sentience Committee (ASC) and its role. The second section covers transparency, definition of animal for the purposes of the Bill and the Bill’s territorial extent.

During the passage through the House of Lords there were no successful Opposition amendments. The Government amended the Bill at report stage to include any cephalopod mollusc and any decapod crustacean to the definition of animal in the Bill. This followed the conclusions of the [LSE Review of the Evidence of Sentience in Cephalopod Molluscs and Decapod Crustaceans](#).

1 Cephalopods and decapod crustaceans

Defra commissioned an independent external review by LSE of the available scientific evidence on sentience in certain invertebrates. These were decapod crustaceans such as crabs and lobsters; and the cephalopod class, which includes octopus, cuttlefish and squid. The review findings would inform whether they should be included within the scope of the Bill.

The [LSE Review of the Evidence of Sentience in Cephalopod Molluscs and Decapod Crustaceans](#) was published in November 2021.

The report recommended that all cephalopod molluscs and decapod crustaceans be regarded as sentient animals for the purposes of UK animal welfare law. They should be counted as animals for the purposes of the Animal Welfare Act 2006 and included in the scope of any future legislation relating to animal sentience. The review also made recommendations on specific commercial practices.

⁹ [Animal Welfare \(Sentience\) Bill \(HL\) 13 May 2021](#)

The Bill, as set out in this section, is [as introduced in the House of Commons \(86.4KB, PDF\)](#) on 14 December 2021, following Lord's stages.

General purpose of the Bill

As set out in [Explanatory Notes to the Bill](#), the legislation will apply to both wild and domesticated animals. They summarise the Bill's purpose as follows:

The Bill recognises that animals are sentient beings and creates an accountability mechanism which aims to ensure that UK Ministers have due regard to their welfare needs when formulating and implementing government policy.

An appropriate committee will be established to assess and report on the animal welfare impacts of policy decisions that have been taken, or which may be taken, by the Government. The relevant Secretary of State will be required to lay a written statement before Parliament responding to any such report.¹⁰

The Bill does not include a definition of sentience, although the Explanatory Notes do refer to the EU Commission's Animal Welfare Strategy 2012–2015 statement that sentience means that animals are “capable of feeling pleasure and pain.”

The territorial extent of the Bill is England, Wales, Scotland and Northern Ireland. However, it does not apply to any matter that is within the competence of the devolved administrations.

Animal Sentience Committee

Clauses 1-3 of the Bill cover the establishment of the ASC, together with its powers to produce reports and the requirement that the Government responds to these.

Clause 1 requires the Secretary of State to establish and maintain the ASC and appoint its members. The Secretary of State will determine the terms of any appointment, including the length and remuneration for any appointment (as set out in the Explanatory Notes).

There is no deadline for setting up the ASC set out in the Bill. There are also no further details on the membership or functioning of the ASC.

Clause 2 sets out the powers of the ASC to produce a report on any government policy that has been implemented or is being formulated. The ASC will be able to examine whether the Government has “had all due regard” to the ways in which any policy may have “an adverse effect on the welfare of

¹⁰ [Animal Welfare \(Sentience\) Bill \[HL\] Explanatory Notes 14 December 2021](#)

animals as sentient beings”. The ASC may also recommend that the Government takes certain actions, to ensure any future policy changes have considered animals defined as sentient in the legislation.

The Explanatory Notes provide further detail of how the ASC is expected to carry out its function, including issuing opinions and scrutinising how animal welfare is considered in policy:

The Committee will be able to issue an opinion in relation to any central government policy. In order to produce a report on this question, the Committee will need to scrutinise the manner in which the policy in question is being, or has been, formulated or implemented and assess the type and level of consideration that the Government is giving, or has given, to any potential adverse effects of the policy on the welfare of animals as sentient beings.

The Explanatory Notes also make clear that having regard for the welfare of sentient animals does not mean “that the welfare of sentient animals should take precedence over other considerations when formulating or implementing a particular policy”.¹¹

The clause defines what is meant by policies of the UK Government. The Bill does not extend to the devolved competencies of the governments of Wales, Scotland or Northern Ireland, which are explicitly excluded.

Clause 3 requires the Government respond to any ASC report in Parliament within three months of its publication.

Transparency

Clause 4 of the Bill includes the ASC within the scope of the Public Records Act 1958 and the Freedom of Information Act 2000.

Animals covered by the Bill

Clause 5 defines the meaning of an animal in the Bill as:

- (a) any vertebrate other than *homo sapiens*,
- (b) any cephalopod mollusc
- (c) any decapod crustacean

¹¹ [Animal Welfare \(Sentience\) Bill \[HL\] Explanatory Notes 14 December 2021](#)

The clause allows further invertebrates to be added by the Secretary of State through regulations laid before Parliament and approved by both Houses (the [affirmative procedure](#)).

Extent and entry into force

Clause 6 of the Bill extends the legislation to England, Wales, Scotland and Northern Ireland. This clause enters into force on the date of Royal Assent. The rest of the Bill will come into force through regulations when the Secretary of State appoints through a statutory instrument.

This clause also includes a standard privilege amendment, relating to finance provisions, included when bills are introduced to Parliament in the House of Lords.

2.1

Reaction to the Bill

A [Better Deal for Animals Coalition](#) includes over fifty animal protection groups who have campaigned for a law to recognise animal sentience. It has produced [a number of briefings on the Bill](#) during the different stages in the House of Lords.

In a briefing for the Bill in December 2021, the Coalition welcomed the addition of cephalopods and decapod molluscs to the Bill and the publication by the Government of the [Terms of Reference of the ASC](#). It went on to suggest some further measures.

[UK Centre for Animal Law](#) (A-LAW) welcomed the Bill but [raised concerns in evidence to the EFRA Select Committee](#) that the ASC would not have any statutory duty and complete discretion as to when and how to exercise any powers. It also raised concerns that there were:

No safeguards in the Bill in relation to independence, expertise, or powers of the Animal Sentience Committee ('the ASC') since the detail is lacking.

We would usually expect the constitution of a statutory committee to be set out in a schedule to the legislation, if not included within the body of it or provided for by Statutory Instrument.¹²

The [Countryside Alliance's view](#) when the Bill was first published was that in principle, "recognising sentience and holding the Government to account in this area was not a bad thing". However, it expressed some reservations over the difference between 'welfare' and 'rights':

¹² [A-LAW. Submission to the EFRA Committee by the UK CENTRE FOR ANIMAL LAW \(A-LAW\) on the Animal Welfare \(Sentience\) Bill inquiry. 4 July 2021](#)

Of course, recognition of sentience and the welfare needs of animals is not the same as recognising that animals have rights, in the sense that human beings have rights, and it is important that animal welfare is not confused with animal rights. The inclusion of sentience in UK law must not damage the ability of farmers and land managers to manage wildlife humanely and responsibly.¹³

The [British Association for Shooting and Conservation \(BASC\) and the Angling Trust](#) jointly expressed concerns about the potential impact of the Bill on “sustainable shooting and angling, leaving country sports vulnerable to those seeking a ban or severe curtailment”.¹⁴

2.2

EFRA Select Committee inquiry

The Environment Food and Rural Affairs (EFRA) Committee launched an inquiry into the Animal Welfare (Sentience) Bill on 28 May 2021. The Committee set out [the following terms of reference](#):

- Will the Animal Welfare (Sentience) Bill ensure that animal sentience is properly taken into account in both new and existing Government policy in England?
- Are there sufficient safeguards to ensure that the proposed Animal Sentience Committee will be (a) independent (b) have the necessary expertise and (c) have the necessary powers to be effective?
- Are the proposed requirements on the Government to respond to an Animal Sentience Committee’s report sufficient?
- How does the proposed Animal Sentience Committee compare to similar bodies, such as the Scottish Animal Welfare Commission?
- Is the Government correct to limit the scope of the Bill to vertebrate animals?

The Committee has not yet published its report, but it has [published written evidence submissions and held two evidence sessions](#) on 19 July and 7 September 2021 on its website.

The Chair of the Committee, Neil Parish, wrote to the Secretary of State for Environment, Food and Rural Affairs, George Eustice, [setting out key findings](#) on 17 January 2021. He summarised the views of the Committee, who generally welcomed the legislation, as follows:

We welcome the improvements that have been made since the 2017 draft legislation, particularly the requirement for Ministers to respond to the ASC’s reports which should reduce the risk of vexatious judicial review

The new ASC will play a vital role ensuring that the Government takes account of the welfare of sentient animals when formulating policy. However, having the right people on the Committee with a depth of expertise in animal welfare and related scientific knowledge will be essential if it is to produce high quality

¹³ [Countryside Alliance, Animal Welfare \(Sentience\) Bill 2021, 17 May 2021](#)

¹⁴ [BASC, BASC joins forces with Angling Trust on animal sentience, 16 June 2021](#)

reports that do justice to these important issues. Equally importantly, its Chair and members will need to be operationally independent from Government and able to command respect across Whitehall. It must also have sufficient powers and resources to undertake its work.¹⁵

The Committee viewed the draft terms of reference for the ASC as “a welcome step in the right direction” and set out some of the concerns raised by witnesses. Firstly, whether ASC members will have enough time to do their work:

Given the sheer breadth of Government policies that the ASC might be expected to review [...] **I ask that you commit to reviewing the time commitment of members of the ASC after its first year in operation and to increasing their hours if necessary.**¹⁶

On the ASC’s ability to publish a strategy and an annual report without Government approval:

Witnesses were clear that allowing the ASC to publish a strategy and an annual report would improve transparency and inform all Government departments of what will be expected of them when considering animal sentience in their policy development. **I would be grateful if you could confirm that the ASC will be able to publish a strategy and an annual report without requiring approval from Defra or any other part of Government.**¹⁷

Finally, on whether the ASC will have sufficient powers to carry out its role and ensuring it is able to gather information as needed:

Witnesses were concerned about whether the ASC would have sufficient powers and authority to gather information from departments, and how it would be notified during the policy formulation process in a timely fashion [...] **During the debate on the Bill, I ask that you set out how you will ensure the ASC is able to gather the information it needs to do its job and how Defra will support the ASC to ensure its reports are taken seriously by other departments.**¹⁸

¹⁵ [Efra Select Committee, Letter from Chair to SoS George Eustice on the Animal Welfare \(Sentience\) Bill, 17 January 2021](#)

¹⁶ [Efra Select Committee, Letter from Chair to SoS George Eustice on the Animal Welfare \(Sentience\) Bill, 17 January 2021](#)

¹⁷ [Efra Select Committee, Letter from Chair to SoS George Eustice on the Animal Welfare \(Sentience\) Bill, 17 January 2021](#)

¹⁸ [Efra Select Committee, Letter from Chair to SoS George Eustice on the Animal Welfare \(Sentience\) Bill, 17 January 2021](#)

3

House of Lords proceedings

[Second Reading](#) of the [Animal Welfare \(Sentience\) Bill \(HL\)](#) took place on 16 June 2021. [Committee stage](#) took place on 6 and 21 July 2021. [Report stage](#) took place on 6 December 2021 and [third reading](#) on 13 December 2021.

3.1

Second Reading

Lord Benyon, Parliamentary Under-Secretary of State for the Department for Environment, Food and Rural Affairs, introduced the Bill for second reading by setting out its three main provisions. Firstly:

A recognition in law that any animal with a spine—any vertebrate—is sentient. Sentience is about animals having feelings, both positive and negative, such as pain or joy.¹⁹

The Bill, as presented originally in the Lords included the power to extend this recognition to any **invertebrate** species in future. Later, at report stage (see section 3.3 below,) the Government amended the Bill to include a number of invertebrate species, including cephalopods.²⁰

Secondly, the proposal in the Bill to establish an Animal Sentience Committee (ASC) which will be:

Tasked with reporting on whether individual central government policy decisions have paid all due regard to their effect on the welfare of animals as sentient beings.

The animal sentience committee will have the right to roam across all central government departmental policy decisions. This includes decisions relating to policy formulation and policy implementation.

The committee's findings will be made public and its reports will make recommendations.²¹

The third provision is a requirement on ministers to respond to ASC reports through written statements to Parliament.²²

¹⁹ [HL Deb c1899 16 June 2021](#)

²⁰ [HL Deb c1750 6 December 2021](#)

²¹ [HL Deb c1899 16 June 2021](#)

²² [HL Deb c1899 16 June 2021](#)

Lord Benyon was explicit that the proposals were not aimed at directing Government policy, rather to assist Parliament to hold the Government to account:

It is important to understand what the Bill is and what it is not. It is intended to embed consideration of animal welfare into the policy decision-making process. It does not change existing laws, nor does it dictate to Ministers which decisions they should ultimately make.

It is for Ministers to make those calls, taking all relevant considerations into account, and for Parliament to hold them to account. The Bill is designed to support Parliament in doing so.²³

Baroness Young of Old Scone, welcomed the Bill but called for further clarity on the powers of the ASC, stating:

It needs independent powers and adequate resources to fund a secretariat and to have the ability to call witnesses, commission research and have access to documents.²⁴

She also called for the Government to create and maintain an animal sentience strategy and, like many other Peers, for the Bill's to be extended beyond vertebrate animals.²⁵

Lord Trees, co-chair of the All-Party Parliamentary Group for Animal Welfare generally welcomed the Bill, although he raised the issue of possible unintended consequences. On the Bill itself he said:

The Bill is very wide-ranging, covering all policy without exception, and it also implicitly includes wild animals. In placing obligations on government, the Bill will complement our excellent Animal Welfare Act, which places obligations on individual keepers of animals.²⁶

Several Peers expressed their general support for the Bill.²⁷ However, Baroness Jones of Moulscobel, was critical of the 'ineffective' premise of the Bill and its limited scope:

No matter how well-meaning, how well resourced or how hard-working the committee is, the Government can simply ignore it and do their own thing. Just as they did with climate change and carbon credits, they can do with animal welfare and animal sentience.

There is a lot that needs to be improved in this Bill, but it almost feels like wasted effort, because I know that the whole premise of the Bill is designed to make it completely ineffective. This is reflected in the Long Title, which seems designed to frame the scope of the Bill so tightly around the animal sentience

²³ [HL Deb c1900 16 June 2021](#)

²⁴ [HL Deb c1901 16 June 2021](#)

²⁵ [HL Deb c1901 16 June 2021](#)

²⁶ [HL Deb c1924 16 June 2021](#)

²⁷ [HL Deb c1928 16 June 2021](#) and [HL Deb c1929 16 June 2021](#)

committee that it would not be possible to table amendments that were not focused on the committee.²⁸

Lord Etherton raised the question of whether the Bill had implications for religious slaughter.²⁹ This was raised by several Peers.³⁰

Lord Herbert was concerned that the Government would be “subcontracting decisions to bodies that are accountable neither to us nor to the public but can be pressured by outside interests”.³¹

Baroness Mallalieu, president of the Countryside Alliance, referred to the motivation behind the Bill as “gesture politics” and believed that there were better ways of getting animal sentience on the statute book.³²

Concerns were also raised by speakers about the limited detail in the Bill, the broad scope of the ASC remit,³³ and that this remit was also retrospective allowing it to examine existing policies.³⁴ Baroness Deech considered the Bill unsatisfactory because “it is unnecessary; it duplicates existing protections; it is retrospective; and it is filled with uncertainty”.³⁵

Baroness Bakewell of Hardington Mandeville, speaking for the Liberal Democrats, called the Bill “short but extremely important”, ensuring animal sentience remains enshrined in law after leaving the EU.³⁶ She, like many, called for an animal welfare strategy and views on the role and resourcing of the ASC:

The essentials to inspire confidence in the ASC’s deliberations and outcomes will not necessarily come from the number of representatives, nor just who or which organisations are represented on the committee. Instead, confidence will come from ensuring a wide range of expertise among the membership. It will come from complete transparency around the recruitment process and in all the workings of the committee.³⁷

Baroness Hayman of Ullock, speaking for the Labour Party, particularly welcomed some aspects of the Bill:

The Bill covers all departments and that, by implication, it covers wild animals as well as those under the control of man, as wild animals should also be protected from harm by man.³⁸

She also questioned whether the ASC should also be able to recommend policy that brings about positive impacts on animals, instead of just

²⁸ [HL Deb c1908 16 June 2021](#)

²⁹ [HL Deb c1905 16 June 2021](#)

³⁰ [HL Deb c1916 16 June 2021](#)

³¹ [HL Deb c1909 16 June 2021](#)

³² [HL Deb c 1912 16 June 2021](#)

³³ [HL Deb c 1912 16 June 2021](#)

³⁴ [HL Deb c 1914 16 June 2021](#)

³⁵ [HL Deb c 1914 16 June 2021](#)

³⁶ [HL Deb c1940 16 June 2021](#)

³⁷ [HL Deb c1941 16 June 2021](#)

³⁸ [HL Deb c1942 16 June 2021](#)

addressing negative impacts and called for the scope of the Bill to be extended beyond vertebrate animals.³⁹

She said Labour would also be seeking guarantees on the membership of the ASC, transparency in recruitment and its genuine independence. The ASC should also have a mandate with a clear duty to review all policies that fell within defined criteria.⁴⁰

3.2 Committee stage

The Bill passed its committee stage [unamended](#) and [without divisions](#).

Clause 1 was debated and agreed in [Grand Committee on 6 July 2021](#). During the debate a number of amendments to the Bill were proposed and withdrawn without division, including ones that would have:

- Required the ASC to be set up through regulations.⁴¹
- Limited the scope of the ASC to areas that were defined in Article 13 of the Lisbon treaty.⁴²
- Excluded from the remit of the ASC any policy related to the advancement of medical science.⁴³
- Set out the required expertise of members of the ASC and required the Government to provide resources for the committee.⁴⁴
- Allowed the ASC to call witnesses, required the Government to inform the ASC of any relevant policies and placed a duty on the Secretary of State to prepare an Animal Sentience Strategy.⁴⁵
- Required the ASC to carry out its functions “respecting legislative or administrative provisions and customs relating to religious rites, cultural traditions and regional heritage”.⁴⁶
- Barred anyone connected to organisations promoting animal rights being appointed to the ASC.⁴⁷
- Included a definition of animal sentience in the Bill as “means the capacity to have feelings, including pain and pleasure, and implies a level of conscious awareness”.⁴⁸

³⁹ [HL Deb c1943 16 June 2021](#)

⁴⁰ [HL Deb c1943 16 June 2021](#)

⁴¹ [HL Deb c268GC 6 July 2021](#)

⁴² [HL Deb c268GC 6 July 2021](#)

⁴³ [HL Deb c270GC 6 July 2021](#)

⁴⁴ [HL Deb c305GC 6 July 2021](#)

⁴⁵ [HL Deb c274GC 6 July 2021](#)

⁴⁶ [HL Deb c280GC 6 July 2021](#)

⁴⁷ [HL Deb c327GC 6 July 2021](#)

⁴⁸ [HL Deb c276GC 6 July 2021](#)

In response to the many queries regarding the ASC's role and function the Minister committed to sharing draft terms of reference with Peers before Report stage of the Bill.⁴⁹

2 ASC Terms of reference

The [ASC draft terms of reference were deposited in the Lord's and Commons Library](#) on 5 January 2021. They include details of the proposed terms of reference for the ASC, together with details of how the Committee will operate, including how appointments will be made.

It also sets out details of how it will work with the [Animal Welfare Committee](#) (AWC) and within the Animal Welfare Committee of Expertise (AWCE). This expert advisory body, supported by Defra, will work across the devolved administrations, and will include the AWC, the ASC, the [Zoo Experts Committee](#) (ZEC) and the Welfare at Killing Committee (WAK), which is a subcommittee of the AWC.

The Minister also explained the reason for not including a definition of sentience the Bill as being that term was heavily influenced by the latest scientific understanding and so would risk becoming rapidly out of date.⁵⁰

On religious slaughter Lord Benyon stated the following:

The Government would much prefer that animals were stunned before slaughter but we respect the traditions and the culture of communities that will not change that.⁵¹

The remainder of the Bill was debated and agreed in [Grand Committee on 20 July 2021](#). During the debate a number of amendments to the Bill were proposed and withdrawn without division, including ones that would have:

- Limited the scope of the ASC to new rather than existing polices.⁵²
- Removed the discretion of the ASC to produce reports on polices, instead requiring it to do so.⁵³
- Required the ASC to seek the consent from Secretary of State to produce a report.⁵⁴
- Required the ASC to submit an annual report to Parliament.⁵⁵
- Required the ASC's recommendations not be detrimental to conservation, biodiversity and other matters.⁵⁶

⁴⁹ [HL Deb c288 GC 6 July 2021](#)

⁵⁰ [HL Deb c288 GC 6 July 2021](#)

⁵¹ [HL Deb c291GC 6 July 2021](#)

⁵² [HL Deb c2GC 20 July 2021](#)

⁵³ [HL Deb c7GC 20 July 2021](#)

⁵⁴ [HL Deb c12GC 20 July 2021](#)

⁵⁵ [HL Deb c14GC 20 July 2021](#)

⁵⁶ [HL Deb c29GC 20 July 2021](#)

Lord Benyon responded to amendments aiming to limit the scope of the AWC to future policies as follows:

I agree that we would gain little from a committee that devotes its energies to reopening old debates. We want a committee that improves the policy decision-making and implementation process now and in future.

However, policy is not a static thing. This afternoon, we have heard descriptions of policies that go back centuries. Policy is always being reassessed, reinterpreted and, above all, implemented. It would be difficult to pin down a working definition of established policy, particularly in statute, that does not shut the committee out of a number of areas where its scrutiny would be most valuable.⁵⁷

3.3 Report stage and Third Reading

[Report Stage of the Bill took place on 6 December 2021](#). There were three Government amendments during Report. One amended the definition of animal in the Bill and two minor amendments clarified meaning in the Bill. There were no opposition amendments.

Cephalopods and decapod crustaceans

The Bill was [amended by the Government](#), without division, to include cephalopod molluscs and decapod crustaceans to the definition of animal in Clause 5. This followed the conclusions of the [LSE Review of the Evidence of Sentience in Cephalopod Molluscs and Decapod Crustaceans](#) commissioned by Defra and published in November 2021.

When proposing the amendment Lord Benyon set out the reasons for the amendments:

The review considered the findings of around 300 scientific studies, using a set of criteria based on brain structure, nervous system complexity and testing for adaptive behaviour to assess whether these classes of invertebrate are sentient. The report itself was subject to peer review.

The Government have given careful consideration to the contents of the final report. We accept that there is strong evidence of the sentience of these invertebrates. It is only right, therefore, that they are included in the provisions of the Bill. That means that the animal sentience committee, once established, may produce reports under Section 2 of the Bill in relation to the welfare of cephalopod molluscs and decapod crustaceans.⁵⁸

He also explained the decision would not affect current policies, although it may have future implications:

⁵⁷ [HL Deb c4GC 20 July 2021](#)

⁵⁸ [HL Deb c1750 6 December 2021](#)

However, I want to be clear that this amendment does not alter existing legislation or policy. I have heard, for example, the concerns put to me by representatives of the fishing sector, and I can assure this House that nothing in this amendment, or indeed in the Bill, changes the rules governing the activities of individuals or businesses.

Naturally, in due course, the Government may wish to consider whether it would be appropriate to amend the scope of other animal welfare legislation to include cephalopod molluscs and decapod crustaceans. While that is not the question we are discussing today, I take the opportunity to assure your Lordships that any changes to existing laws would be subject to appropriate parliamentary scrutiny, and we would consider carefully how we would engage industry in their development.⁵⁹

There was support for the amendment across the House, including from Labour and the Liberal Democrats.⁶⁰

Religious slaughter

There was one amendment that was pushed to a vote and disagreed during Report. The amendment to Clause 2 would have required that:

Recommendations made by the Committee [ASC] must respect legislative or administrative provisions and customs relating in particular to religious rites, cultural traditions and regional heritage⁶¹.

Baroness Deech, supporting the amendment, set out the reason for it as to maintain provisions that exist in the Treaty of Lisbon, as it applied to the UK before it left the EU:

Far be it from me to want to continue any European law, but this particular provision did in fact mirror what was already the situation in this country. My concerns if it is not enacted relate to medical research and religious traditions in killing animals.

The Lisbon provision successfully kept issues out of court, and religious minorities were content with it. Not to include this amendment is to open the door to vigorous disagreements over traditional practices and to more judicial review—and if there is one thing this Bill was supposed to do, it was to corral the committee and the Minister in policy issues. Muslim spokespersons are likely to be as worried about halal as are the representatives of the far smaller religious Jewish community. In the past, they have lived comfortably with the Lisbon balancing factors, and we want this to continue.⁶²

In his response, Lord Benyon explained that decisions in this area would not sit with the ASC:

This amendment would require the animal sentience committee to have regard to certain other matters of public interest, such as cultural traditions. It bears repeating that the purpose of the committee is not to make value judgments

⁵⁹ [HL Deb c1750 6 December 2021](#)

⁶⁰ [HL Deb c1751 6 December 2021](#)

⁶¹ [HL Deb c1750 6 December 2021](#)

⁶² [HL Deb c1681 6 December 2021](#)

on the weight that animal welfare should be given in relation to other matters of public interest. That is for Ministers, who are rightly held to account in Parliament.⁶³

On division the amendment was rejected with 25 votes for and 74 against.⁶⁴

Third reading

[Third Reading of the Bill took place on 13 December 2021](#). During the debate Lord Benyon summarised how the ASC would work once in place:

I believe it will oil the wheels of the policy-making process. We have indicated that the committee should look to produce six to eight reports a year. It will have to select policy decisions very carefully, and the administrative burden that is created will be light.

Furthermore, the committee is not empowered to make recommendations on the substance of policy decisions; its recommendations will be strictly limited to consideration of the animal welfare impacts of the policy decision.⁶⁵

During the debate, Lord Herbert of South Downs, Chair of the Countryside Alliance tabled an amendment to add the following to the Bill:

That this House, while strongly supporting measures to improve animal welfare, regrets the way in which the proposed Animal Sentience Committee is to be established.⁶⁶

He explained his concerns as follows:

I feel strongly that animals must be treated properly but, whatever the good intentions of those promoting the Bill, I fear that it is not a wise measure as drafted. In fact, if we take a step back, it is actually an incredible measure. It seriously proposes that the effect of any government policy on the welfare of animals may be considered by an unfettered statutory committee and that Ministers must respond to that committee's reports.⁶⁷

Several Peers spoke in support of the amendment raising their various concerns about the Bill. The amendment was not supported by the Liberal Democrats or by Labour, or the Minister, and withdrawn without division.⁶⁸

⁶³ [HL Deb c1964 6 December 2021](#)

⁶⁴ [HL Deb c1742 6 December 2021](#)

⁶⁵ [HL Deb c16 13 December 2021](#)

⁶⁶ [HL Deb c16 13 December 2021](#)

⁶⁷ [HL Deb c16 13 December 2021](#)

⁶⁸ [HL Deb c22 13 December 2021](#)

4

House of Commons Proceedings

[Second Reading of the Animal Welfare \(Sentience\) Bill](#) took place in the House of Commons on 18 January 2022. The Bill was [examined in Committee during two sessions on 10 February 2022](#). Report and Third Reading of the Bill were due to take place on 7 March 2022 but were postponed.

4.1

Second Reading

[Second Reading of the Animal Welfare \(Sentience\) Bill](#) took place in the House of Commons on 18 January 2022

On introducing the Bill, in addition to summarising the proposed legislation, the Secretary of State for Environment, Food and Rural Affairs George Eustace explained what the Bill would or would not do. Committee reports will not impose any requirements on the Government:

While its aim is to improve the policy and decision-making processes of Government, the committee's reports will not bind Ministers to any particular course of action. Ministers will remain free to determine the right balance between animal welfare and other important considerations.⁶⁹

The ASCs role will be to scrutinise how policy decisions are made rather than critique Government decisions:

It is also important to understand that the Bill tasks the Animal Sentience Committee with scrutinising the process by which Ministers arrive at policy decisions. It is not there to tell Ministers what decisions they should make or to critique those decisions. Instead, it is there to provide technical assessments of how well a given Department obtained and assessed relevant evidence on the animal welfare effects of the policy in question.⁷⁰

Speaking for the Opposition, Jim McMahon, set out Labour's support for the Bill but raised a number of concerns. He called for the Government to use the Bill as an opportunity to address animal welfare concerns raised by the negotiation of bilateral trade deals with countries such as Australia.⁷¹ A number of Opposition MPs also raised this issue. In addition, many referred to strengthening legislation banning fox hunting with dogs. Ruth Jones stated:

⁶⁹ [HC Deb 18 January 2002 c244](#)

⁷⁰ [HC Deb 18 January 2002 c244](#)

⁷¹ [HC Deb 18 January 2022 c246](#)

We will ask Ministers to work with us to strengthen the Bill and tackle the loopholes used by those who go hunting every Boxing Day and the outsourcing of animal cruelty triggered by the trade deals negotiated by this Government.⁷²

Labour also called for the Bill to be strengthened by requiring Ministers to:

- Put in place a cross-Government animal sentience strategy,
- Report to Parliament on how Government policy is meeting any strategy.⁷³

In response to concerns raised by Caroline Lucas that the ASC's proposed remit only covered adverse effects on animals, the Secretary of State clarified that an adverse effect as set out in the Bill could mean a failure to consider or make "a change that would have a positive effect on the welfare of animals".⁷⁴

In response to concerns raised by Jonathan Djangoly that the ASC assessment of a policy could result in its judicial review of Government policy, the Secretary of State set out why this was not the case:

...the obligation on a Minister [set out in the Bill] is to respond to the report within three months, and that response can deal with any recommendation or observation put forward by the committee.⁷⁵

4.2

Committee stage

The Animal Welfare (Sentience) Bill was [examined in Committee during two sessions on 10 February 2022](#). In addition, [written evidence was received from a number of organisations](#). These were:

- Better Deal for Animals Coalition
- RSPCA
- Compassion in World Farming
- Crustacean Compassion
- Game & Wildlife Conservation Trust
- Conservative Animal Welfare Foundation

The Bill was unamended by the Government in Committee, other than to remove the privilege amendment inserted by the Lords. [This is standard practice as explained in Erskine May](#).

There were six opposition amendments debated and put to a vote, none of which were successful. They are summarised below in the order that they were debated in the Committee:

⁷² [HC Deb 18 January 2022 c280](#)

⁷³ [HC Deb 18 January 2022 c247](#)

⁷⁴ [HC Deb 18 January 2022 c244](#)

⁷⁵ [HC Deb 18 January 2022 c245](#)

- **Amendment 5** would have removed the reference to the ASC only examining policies for their “adverse” effect on animals. Kerry McCarthy said this would allow the ASC to also identify positive effects.⁷⁶ The Under-Secretary of State for Environment, Food and Rural Affairs Jo Churchill, explained that in the Government’s view this was not necessary because this was already possible:

The committee is not required to limit its consideration purely to the adverse effect. By definition, it will consider both sides, but it is not necessary, for the avoidance of doubt, [...] the point that positive effects can be considered is reinforced in the committee’s draft terms of reference.⁷⁷

- **Amendment 2** would have allowed the ASC consult with or request information from government departments and other public bodies. It would also have required these bodies to co-operate. In proposing the amendment Ruth Jones said it was important to ensure the committee received the information needed to prepare its reports.⁷⁸ In a detailed response, the Minister said that including the provision in the Bill could open up the Government to judicial review:

While I would agree that it is key for the committee to have the necessary information to do its job, placing an additional duty on Departments to provide the committee with documents would just create additional grounds for judicial reviews. If a Department or public body was seen not to fully comply with the requests made by the Animal Sentience Committee, there would be grounds for a challenge.

The Bill has been carefully considered and worded to give meaningful effect to the principle of animal sentience without getting tied up in legal challenges. We want the committee to focus on current and future policy.⁷⁹

- **Amendment 4** would have required the Secretary of State to consider extending the Animal Sentience Committee to other public bodies, within a year of passing the Act. The amendment aimed to address the concern that the Bill does not extend to non-departmental public bodies such as the Environment Agency and Natural England.⁸⁰ The Minister rejected the amendment:

By their nature, and relative to core Departments, non-departmental public bodies operate at arm’s length from Ministers. Extending this committee’s remit beyond central Government Departments would not be targeted and so would not be in line with the aims of what we are trying to achieve.⁸¹

- **Amendment 3** would have required Ministers to respond to ASC reports in an oral statement to Parliament rather than a written statement. In response the Minister stated that it would not “be proportionate to clog

⁷⁶ [PBC Deb 10 February 2022 c8](#)

⁷⁷ [PBC 10 February 2022 c9](#)

⁷⁸ [PBC 10 February 2022 c9](#)

⁷⁹ [PBC 10 February 2022 c13](#)

⁸⁰ [PBC 10 February 2022 c14](#)

⁸¹ [PBC 10 February 2022 c17](#)

up the parliamentary timetable with an automatic debate on every single report”.⁸²

- **Amendment 6** to Clause 5 would have added a definition of sentience to the Bill, which does not include one. The proposed definition was “the capacity to have feelings, including pain, pleasure, hunger, thirst, warmth, joy, comfort and excitement”.⁸³ Kerry McCarthy argued that including a definition would give the ASC a reference point when carrying out its work, and that would also highlight that sentience was not just about feeling pain.⁸⁴ The Minister responded re-stating the Government position that fixed legal definition would become out of date with time.⁸⁵
- **New Clause 1** would have required the Secretary of State to produce an animal sentience strategy, and report to Parliament on progress every year. Daniel Zeichner proposed the amendment. The aim was to address the view that the legislation as proposed was weaker than the EU legislation it was aiming to replace:

The Bill places indirect responsibilities on Ministers; they must simply establish and maintain a committee and lay written responses, rather than assuming direct responsibilities on these matters, which is what we would like to see. This is clearly an inadequate replacement for the duties and responsibilities enshrined in article 13 of the treaty on the functioning of the European Union, and that is what we seek to address through the new clause.⁸⁶

Without the amendment he expressed concerns that the ASC’s work could end up being merely symbolic:

The new clause would place a duty on the Secretary of State to produce an animal sentience strategy and to provide annual updates to Parliament on progress against it. It would significantly improve the Bill by increasing the heft given to the Animal Sentience Committee and ensuring that its work does not, as I fear it might, end up being merely symbolic.⁸⁷

In response the Minister set out the Government’s position that a strategy would remove the ASC’s independence and freedom to decide where to focus its work:

A strategy in which Ministers set out policies that they want the committee to consider would limit its ability to set its own agenda. It is vital to make sure that the committee is led by science and by experts, and that it has its own ability to define sentience, if it wishes to, and to set its own agenda.⁸⁸

⁸² [PBC 10 February 2021 c20](#)

⁸³ [PBC 10 February 2022 c22](#)

⁸⁴ [PBC 10 February 2022 c22](#)

⁸⁵ [PBC 10 February 2022 c23](#)

⁸⁶ [PBC 10 February 2022 c27](#)

⁸⁷ [PBC 10 February 2022 c28](#)

⁸⁸ [PBC 10 February 2022 c28](#)

Role of the Animal Sentience Committee

The [ASC draft terms of reference were deposited in the Lord's and Commons Library](#) on 5 January 2021. They include the proposed terms of reference for the ASC and details of how the Committee will operate, including how appointments will be made.

During the debate the Minister set out further detail of how the ASC would carry out its role, in response to some of the issues raised.

The Minister clarified the respective roles of the Animal Welfare Committee and the ASC:

The Animal Welfare Committee will sit in an advisory capacity, while the Animal Sentience Committee will sit in a scrutinising capacity. It is important to remember that the two committees have very distinct roles⁸⁹

The Government expects the Committee to examine around six policy decisions a year:

We expect the committee to focus on Government policy decisions that could have a significant impact on animal welfare. As we have previously indicated, that is expected to be in the region of six individual policy decisions per year. Given the breadth of government, the committee will need to be selective in what it scrutinises.⁹⁰

The ASC will be able to adopt its own working definition of sentience:

If Animal Sentience Committee wishes to adopt a working definition of “sentience”, it will be absolutely free to do so. One of the first acts of the Scottish Animal Welfare Commission—a similar body, to which the hon. Member for Edinburgh North and Leith alluded earlier—was to prepare its own working definition of “sentience”⁹¹

⁸⁹ [PBC 10 February 2022 c5](#)

⁹⁰ [PBC 10 February 2022 c16](#)

⁹¹ [PBC 10 February 2022 c23](#)

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